

REMARKS

Claims 1 -18 are currently pending in the application. Claims 1, 10, 12, and 13 are currently amended. Claims 2, 3, 5, 6, 7, 14, 15, 17, 18 were previously presented. Claims 4, 8, 9, 11, 16 are as originally filed. Claim 19 was previously withdrawn and Claim 20 was previously cancelled. No new matter has been added as discussed below.

Claims Rejections under 35 USC 112

Claim 1 has been rejected under 35 USC 112, second paragraph, as being indefinite. These claims have been amended as seen above. The examiner states that the automated bidding utility is unclear and therefore renders the claim indefinite. The following amendments have been made to Claim 1 which the applicant respectfully submits render the claim definite under section 112:

- 1) The term "users" has been changed to "bidders" to more clearly detail the fact that the bidders, as seen in Fig 1 and discussed in the first paragraph in the specification on page 5, are placing the bids over the network.
- 2) In light of the examiner's remarks regarding the term "configured to calculate..", the claim has been amended to read "calculates" to reflect the fact that claim 1 is a method claim, and indeed *calculating is actually being performed* in claim 1.

Claims Rejections under 35 USC 103

The Examiner rejected claims 1-18 under 35 U.S.C. 103(a) as being unpatentable over Godin in view of Hogendoorn.

Hogendoorn teaches a method that is based on a submission of "preregistered bids" from remote locations before the auction cycle. The auction is a descending bid auction system that is based on a "pricing device" that decreases the bid price for an item. The bids are accepted when the price declines to a price that matches that of the preregistered bid.

Godin teaches a method using a reverse auction process over a computer network. A server decreases prices at selected time intervals by a selected amount. The bids are resolved immediately at the current asking price, and the bidder knows exactly what price he is paying. Godin does not allow for bids to accumulate.

Claim 1 has been amended as seen above. The amended claim now emphasizes the fact that the present invention actually calculates a bid price or bid time according to the bid time function. Performing such a calculation is not taught in either of the cited references, Godin or Hogendoorn, which never teach any kind of continuous function relating time and price. Consequently, they do not give the option of calculating prospective bids or their associated win times and outputting these prospective times or bid prices for the bidder for him to consider before placing his bid.

The bidding utility can compute and output various bid times or bid prices, based on the continuous function, and the bidder can decide which price or time is most suitable for him.

The above is reflected in the term continuous function, which has been added to the claim to describe the bid time function. The bidding utility thus can compute and output various bid times or bid prices, based on the continuous function, and the bidder can decide which price and time is most suitable for him

Claim 1 now emphasizes that the calculation of the bid time may be completed prior to a bidder placing a bid. That is to say, the utility can calculate and output to the bidder either a bidding price, based on the bidder's input time, or an intermediate time, based on the bidder's input price. The utility thus determines for him either the price he must bid if he expects to win at the particular input time, or alternatively, the time he can expect to win should he bid at the inputted price. On the basis of these output results, the bidder can determine his desired bid. This is seen in the following amended limitations:

defining an automated bidding utility, said automated bidding utility -enabling bidders to input one of said bid price levels or said intermediate times,

wherein said automated bidding utility calculates the other of said bid price levels or intermediate times according to said bid time function and outputs said other of said bid price level or intermediate time to a respective bidder,

The claim 1 amendments additionally define that if the bidder inputs a bid price, the utility calculates the bid time, whereas if he inputs a bid time, no calculation is necessary and the time is obtained from the utility .

Finally, in claim 1, the phrase "input" has replaced the term "define" to clarify the point that by *inputting* a price the utility calculates the time, and visa versa.

Claim 13 has been amended as follows:

A method of processing bids over a network for an item to be sold, using a cumulative quantity based factor, the method comprising,

setting a first bid price level at which to offer the item at an initial quantity range,

setting at least a second lower bid price level at which to offer the item at a second quantity range greater than said first quantity,

setting a function defining decreasing intermediate bid price levels for quantity ranges between said first quantity range and said second quantity range, where each lower intermediate bid price level corresponds to a greater cumulative quantity range,

receiving one or more bids at any of said bid price levels over said network,

upon auction closing:

calculating a cumulative quantity of items bid for at a totality of said price levels by a totality of bidders.

determining said bid price level corresponding to said calculated cumulative quantity, and

offering said items at said determined bid price level to said totality of bidders.

The amended claim now defines the following.

The seller defines, before the bidding process, several quantity ranges and associated price levels. Each higher quantity range has a lower associated price level. Bids are accepted at any of the defined price levels during the bid process. At bid closing, the cumulative quantity of items bid is calculated, over all bid price levels. This cumulative quantity falls in one of the quantity ranges defined by the seller prior to the bid process, and thus has an associated price level. This associated price level is the final selling (or offer for sale) price to all the bidders.

The price level at which the items will finally be sold thus decreases when the cumulative quantity of items bid reaches predefined quantity thresholds. Once a certain threshold of cumulative bids placed by all bidders up to that point is reached, *a new, lower* price level is triggered at which the items will be offered or sold at the bid closing. This process continues until bid close. Therefore, the final offering price *dynamically changes* at points throughout the bidding process, based on the cumulative quantity of bids *by all bidders up to that point.*

Neither Godin nor Hogendoorn teach or hint at such a dynamically changing price level which the bidder will ultimately pay depending on a cumulative bid quantity factor.

Godin teaches a method using a reverse auction process (described above), in which the bids are resolved immediately at the current asking price, and the bidder knows exactly what price he is paying. As the examiner states in the office response from Sep 9, 2005, "Godin fails to teach setting threshold quantities and calculating a quantity of items bid for and offering said items at an intermediate price bid level..." Hogendoorn teaches a method that is based on a "preregistered bid" where the bidder may indicate a desired quantity. However, Hogendoorn makes no mention of cumulative quantity based pricing, wherein final offering/selling prices given to bidders are dynamically lowered in relation to the overall, or cumulative, amount of bids over all bid price levels.

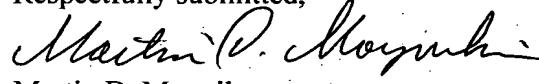
In fact, in the present invention, in contrast to the cited references, the bidder may actually ultimately pay a lower price for the item than his bid. This would be the case where he bids for the item at one bid price level, and, as a result of the calculated cumulative quantity, the items are ultimately sold to all the bidders at a lower price level.

The remaining claims mentioned regarding claim rejection under 35 USC 103 are believed to be allowable as being dependent on an allowable main claim.

It is believed that all of the matters raised by the Examiner are overcome, and that all of the claims are both novel and inventive.

An early Notice of Allowance is respectfully requested.

Respectfully submitted,



Martin D. Moynihan
Registration No. 40,338

Date: June 29, 2006